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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/676,364	09/29/2000	John D. Roper	MSFT-0207/150500.1	2193

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EXAMINER

CAMPBELL, JOSHUA D

ART UNIT PAPER NUMBER

2179

DATE MAILED: 04/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/676,364

Applicant(s)

ROPER ET AL.

Examiner

Joshua D Campbell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 December 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,6,12,13,17,23 and 27 is/are rejected.
- 7) ☒ Claim(s) 3-5,7-11,14-16,18-22,24-26 and 28-32 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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### **DETAILED ACTION**

1. This action is responsive to communications: Amendment filed on 12/15/2004.
2. Claims 1-32 are pending in this case. Claims 1, 12, and 23 are independent claims. Claims 1, 12, and 23 have been amended.
3. The rejection of claims 1-32 under 35 U.S.C. 103(a) as being unpatentable over Kurtzman, II et al. (US Patent Number 6,144,944, filed on April 22, 1998) in view of Langheinrich et al. (US Patent Number 6,654,725, filed November 9, 1999) has been withdrawn due to amendments.

### ***Allowable Subject Matter***

4. Claims 3-5, 7-11, 14-16, 18-22, 24-26, and 28-32 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Claim Rejections - 35 USC § 103***

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
6. Claims 1, 2, 6, 12, 13, 17, 23, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Banner Server Solutions (hereinafter BSS, <http://www.bannerserver.com> as published on June 21, 2000) in view of

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Macartney-Filgate et al. (hereinafter Macartney-Filgate, US Patent Application Publication, US filing date of December 17, 1999).

**Regarding independent claim 1**, BSS discloses a method in which a plurality of display sources exists in which each source has a candidate set of display items (pages 1 and 2 of BSS). BSS discloses that items are selected from a pool of all candidate sets of items in a way that equalizes the probability that display items of one set will be selected in relation to display items of another set even if the sets have unequal numbers of display items (pages 1 and 2 of BSS). BSS does not disclose a method in which more than one display slot is filled for a web page. However, Macartney-Filgate discloses a method in which multiple banner ads may be entered into the multiple ad slots on a web page (Pages 1-2, paragraph 0019-0020 of Macartney-Filgate). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have combined the methods of BSS and Macartney-Filgate because it would have allowed for multiple ad slots to be handled at one time, thus increasing efficiency.

**Regarding dependent claim 2**, BSS discloses a method in which the steps of defining source items, selecting display items in an equalized manner, and filling a display slot with said selection are repeated periodically (pages 1 and 2 of BSS).

**Regarding dependent claim 6**, BSS does not disclose a method in which the equalization process is accomplished by weighting the items. However, Macartney-Filgate discloses a method in which different campaigns (candidate

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sets) are weighted so the campaigns may effectively share the ad time of a customer base when a random selection is made of the total pool of that customer base (Page 3, paragraph 0030 of Macartney-Filgate). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have combined the methods of BSS and Macartney-Filgate because it would have allowed

**Regarding independent claim 12 and dependent claims 13 and 17**, the claims incorporate substantially similar subject matter as claims 1, 2, and 6. Thus, the claims are rejected along the same rationale as claims 1, 2, and 6.

**Regarding independent claim 23 and dependent claim 27**, the claims incorporate substantially similar subject matter as claims 1 and 6. Thus, the claims are rejected along the same rationale as claim 1 and 6.

### ***Response to Arguments***

7. Applicant's arguments with respect to claims 1, 12, and 23 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua D Campbell whose telephone number is (571) 272-4133. The examiner can normally be reached on M-F (8:00 AM - 4:30 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Herndon can be reached on (571) 272-4136. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JDC  
April 12, 2005

  
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